

**REMARKS**

In accordance with the foregoing, claims 1, 3, 5, 6-8, 10, 12, 13, and 17 have been amended and claims 2, 9, 14, 18-32 have been cancelled without prejudice or disclaimer. No new matter is being presented. Therefore, claims 1, 3-8, 10-13, and 15-17 are pending and reconsideration is respectfully requested.

**CLAIM OBJECTIONS:**

Claims 1 and 21 were objected to. However, claim 1 has been amended in accordance with the comments in the Office Action, and claim 21 has been cancelled. Therefore, it is respectfully requested that the objections be withdrawn.

**ADDITIONAL CLAIM AMENDMENTS:**

Claims 3, 5, 7, 8, 10, 12, and 17 have been amended to improve the form of these claims.

**TELEPHONE CONFERENCE WITH THE EXAMINER ON MAY 17, 2007:**

Applicants wish to thank the Examiner for the courtesy of the telephone interview granted on May 17, 2007 during which the current amendments to the claims were discussed. Briefly, it is noted that, while no formal agreement was reached, the Examiner did acknowledge that the current amendments to the claims appeared to render the claims patentably distinguished from the combination of Okada and Kubota and that, therefore, any rejections of the claims on the basis of the combination of Okada and Kubota would be overcome. In particular, the Examiner acknowledged that the last line of paragraph [0075] of Kubota did not refer to the same time period as the predetermined critical period of time.

**REJECTIONS UNDER 35 U.S.C. §102:**

Claims 1, 6, 13, 21, 25-27, 29 and 31-32 are rejected under 35 U.S.C. §102(b) as being anticipated by Okada (U.S. Patent 5,286,965). These rejections are overcome.

Regarding the rejection of claim 1, it is noted that claim 1 has been amended to incorporate the subject matter of former claim 2, which has been cancelled. Thus, since Okada

does not disclose the subject matter of claim 2, it is noted that the rejection of claim 1 is, therefore, overcome.

Of course, it is understood that the subject matter of claim 2 has been rejected as obvious in view of the combination of Okada and Kubota. However, since this rejection is believed to be without merit, as discussed immediately below, and since the Examiner has informally agreed with this position, as discussed above, this rejection is believed to be overcome and claim 1 is believed to be allowable.

Briefly, it is noted that claim 1 now recites that the predetermined critical period of time is set to a time for which the objective lens remains a minimum distance from the disc without damaging the disc when an actuator actuating a pickup moves at an operational maximum speed.

On page 7, of the Office Action, the Examiner suggests that this subject matter is taught in paragraph [0015] of the reference to Kubota. However, this section of the reference discloses an apparatus by which a focusing servo can be pulled into a recording surface without an accompanying collision of an objective lens with a storage medium or a supporting base of a focusing actuator even in a case where such a storage medium exhibits a higher amount of surface vibration thereof than a thickness of a substrate layer thereof.

Responsively, applicants note that while the section of the reference is confusing and grammatically awkward, it does not appear to provide any disclosure related to the claimed setting of the predetermined critical period of time and certainly does not specifically set forth that the predetermined critical period of time is set to a time for which the objective lens remains a minimum distance from the disc without damaging the disc when an actuator actuating a pickup moves at an operational maximum speed, as claimed. Rather, the section suggests that the disclosure as a whole is directed towards avoiding contact between the objective lens and the storage medium or the supporting base. This is in contrast to the claimed invention which is at least partly directed to preventing a collision following a disturbance of the objective lens.

Moreover, no other section of the reference discloses subject matter that is similar to the claimed subject matter. In detail, methods employing the condition judging circuit 17 and the objective lens retreating circuit 14 of the reference are discussed in relevant detail in paragraphs [0074] through [0084]. Here, none of the paragraphs disclose anything like the claimed setting of the predetermined critical period of time to a time for which the objective lens remains a minimum distance from the disc without damaging the disc when an actuator actuating a pickup moves at an operational maximum speed.

Thus, applicants respectfully assert that claim 1 is patentably distinguished from both Okada and from the combination of Okada and Kubota. Therefore, the rejection of claim 1 and any potential obviousness rejection are overcome.

Regarding the rejection of claims 6 and 13, it is noted that these claims recite similar features as claim 1 and that, therefore, the rejections of these claims are overcome for similar reasons as set forth above with respect to claim 1.

Regarding the rejections of claims 21, 25, 26, 27, 29, 31 and 32 it is noted that these claims have been cancelled and that the rejections of these claims are moot.

**REJECTIONS UNDER 35 U.S.C. §103:**

Claims 2, 9, 14, 18-20, and 22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Okada (U.S. Patent 5,286,965) in view of Kubota (U.S. Patent Publication 2002/0101800). However, since claims 2, 9, 14, 18-20 and 22 have been cancelled, it is noted that the rejections of these claims are moot.

Claims 3-5, 7-8, 10-12, 15-17 and 23-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Okada (U.S. Patent 5,286,965) in view of Matsuda et al (U.S. Patent 6,256,273), claims 28 and 30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Okada (U.S. Patent 5,286,965) in view of Maeda et al (U.S. Patent 6,977,782). However, since these claims depend from claims which are believed to be patentably distinguished from the reference to Okada, or are otherwise cancelled, and since the additionally cited references fail to cure the defects of Okada, applicants respectfully assert that the rejections of these claims are overcome for at least the reasons set forth above.

**CONCLUSION:**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited. If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

Finally, if there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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